

V. H. asks the Utah Labor Commission to review Administrative Law Judge Marlowe's dismissal of Mr. H.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

In late 1999 or early 2000, at Prime's headquarters in Missouri, Prime hired Mr. H. as a long-haul truck driver. Thereafter, Prime sent driving assignments to Mr. H. from Prime's Missouri office.

At the time of hire, Mr. H. lived in California. He later moved to Utah. On March 14, 2001, Mr. H. was allegedly injured while driving truck for Prime in Arizona.

On November 21, 2002, Mr. H. filed an application with the Commission to compel Prime to pay benefits for his injury pursuant to Utah's workers' compensation law. Judge Marlowe held an evidentiary hearing on the claim on July 22, 2003. On February 3, 2004, Judge Marlowe dismissed Mr. H.'s claim on the grounds it was not within the coverage of the Utah workers' compensation system. Mr. H. now requests Commission review of Judge Marlowe's determination.

DISCUSSION AND CONCLUSION OF LAW

The sole question before the Commission is whether Utah's workers' compensation system extends to claims made by Utah citizens when Utah is not the place of accident or hire, nor is the employment relationship otherwise localized in Utah. The Commission agrees with Judge Marlowe that Utah's workers' compensation system does not cover such claims.

Larson's Workers' Compensation Law, §143.01(1) and (2), an authoritative treatise on workers' compensation law, notes that virtually all states, including Utah, allow coverage if the injury occurred within the state, the employment was localized within the state, or the employee was hired within the state. *Larson's* cites the Utah Supreme Court's decision in Puckett v. Board of Review, 734 P.2d 468 (Utah 1987), wherein the Utah Supreme Court relied upon §35-1-54 of the Act (now recodified as §34A-2-405) to uphold the Labor Commission's dismissal of Mr. Puckett's claim for workers' compensation benefits. The relevant circumstances of Mr. Puckett's claim were essentially identical to those of Mr. H.'s claim. Of particular note is the fact that the Supreme Court in Puckett did not consider Mr. Puckett's place of residence to be a significant consideration in determining the coverage of Utah's Workers' Compensation Act.

In light of the foregoing, the Commission concurs with Judge Marlowe that Mr. H.'s accident is not covered by the Utah Workers' Compensation Act. For that reason, Mr. H.'s application for benefits under the Act must be dismissed.

ORDER

The Commission affirms Judge Marlowe's dismissal of Mr. H.'s claim and denies Mr. H.'s motion for review. It is so ordered.

Dated this 3rd day of August, 2004.

R. Lee Ellertson, Commissioner